BOMBAY ACT No. III OF 1909.[1]

[THE PRINCE OF WALES MUSEUM ACT, 1909.]

[*19th August, 1909.*]

An Act to provide for the erection and management of the Prince of Wales Museum of Western India.

WHEREAS it is intended to erect and maintain at Bombay a Museum as a memorial of the visit in the year 1905 of His Royal Highness the Prince of Wales to Bombay;

AND whereas certain land has been set apart and large sums of money have been and are being subscribed for these purposes;

AND whereas three Trustees have been provisionally appointed to take the custody of the said moneys;

AND whereas it is expedient to make provision for the erection, maintenance and management of the Museum and for the vesting and management of the said land and moneys and for the appointment of a permanent Board of Trustees;

It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Prince of Wales Museum Act, 1909, and

(*2*) It shall come into force at once.

Property vested in the Board.

2. All the estate, right, title and interest of His Majesty together with all other estates, rights, titles and interests in and to the land specified in the schedule to this Act and all moneys now in the custody of the three Trustees provisionally appointed to take the custody of the moneys subscribed for the purposes of erecting or maintaining at Bombay a Museum as a memorial of the visit in the year 1905 of His Royal Highness the Prince of Wales to Bombay and all the other property, whether immoveable or moveable, which has been or may hereafter be given, devised, bequeathed, transferred or otherwise acquired for the said purposes shall vest in the permanent Board of Trustees constituted by this Act on trust for the erection on the land specified in the said schedule of a Museum to be called "The Prince of Wales Museum of Western India," and for the maintenance and management of the said land and Museum

Constitution and powers of the Board.

3. (*1*) There shall be constituted for the purposes of this Act a permanent Board of Trustees to be called "The Trustees of the Prince of Wales Museum of Western India" and such Board (hereinafter called "the

[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1908, Part VII, page 171; for Report of Select Committee, *see ibid*, 1909, Part VII, page 91, and for Proceedings in Council, *see ibid*, 1909, Part VII, pages 36 and 168.

Board") shall be a body corporate, with perpetual succession and a common seal, and in the name of "The Trustees of the Prince of Wales Museum of Western India" shall sue and be sued, and shall have power to [1][acquire and hold immoveable or moveable property, to let on hire, lease or mortgage any immoveable property vesting in them] to enter into contracts, and to do all acts necessary for and consistent with the purposes of this Act:

[2][Provided that the Board shall not have power to mortgage any land specified in the schedule which is included within lines drawn parallel to, and at a distance of twenty feet from, above the plinths of the front corner towers of the present Museum building and extending from the Rampart Row boundary to the Esplanade Road boundary which area contains by admeasurement 14,606 square yards, be the same a little more or less, and is for greater clearness delineated on the plan referred to in section 2 of the [3]Prince of Wales Museum (Amending) Act, 1913, or any building thereon.]

Bom. Act VII of 1913.

(2) The Board shall consist of the following members, namely :—

[4][(*a*) the Director of Industries for the Presidency of Bombay ;]

(*b*) the Collector of Bombay ;

(*c*) the Principal of the Sir Jamsetjee Jeejeebhoy School of Art ;

(*d*) the Superintendent, Archæological Survey, Western Circle ;

(*e*) such two members of the Municipal Corporation of the City of Bombay as shall from time to time be elected by the said Corporation in accordance with such regulations as may from time to time be made in this behalf by the said Corporation : provided that the election shall be by [5][ballot] ;

[4][(*f*) three other persons be nominated by the Government ;]

[6][(*g*) so long as the collections installed in the Museum by the Bombay Natural History Society remain in the Museum, two other persons to be nominated by the Managing Committee of the Bombay Natural History Society ;

(*h*) so long as the loan collection of the Bombay branch of the Royal Asiatic Society remains in the museum, one other person to be nominated by the Bombay branch of that Society ;

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[1] These words were substituted for the words "hold and acquire property" by s. 2 (*a*) of the Prince of Wales Museum (Amendment) Act, 1921 (Bom. Act 6 of 1921), *infra*.

[2] This proviso was added by s. 2 (*b*) *ibid*.

[3] *Infra*.

[4] This clause was substituted by s. 2 of the Prince of Wales Museum (Amendment) Act, 1922 (Bom. Act 12 of 1922), *infra*.

[5] This word was substituted for the words "open vote, and" by *ibid*.

[6] These clauses were inserted by *ibid*.

(*i*) one other person to be nominated by the Syndicate of the University of Bombay; and

(*j*) four other persons to be nominated by the Board, if the Board so desire, for such period as the Board may consider desirable.]

(3) In the case of *ex-officio* members the person for the time being performing the duties of any of the offices mentioned in sub-section (2) shall act as a member.

(4) All acts done by a majority of the members present and voting at a meeting of the Board shall be deemed to be acts of the Board.

(5) No act of the Board shall be deemed to be invalid merely by reason of any vacancy in, or defect in the constitution of, the Board.

(6) The Board may appoint a person to act as their Secretary.

(7) Orders for the payment of money on behalf of the Board shall be deemed to be sufficiently authenticated if signed by two members and countersigned by the Secretary.

Term of office : election and appointment of new members if a vacancy.

[1][**3A.** (*1*) Members of the Board other than *ex-officio* members shall, save as herein otherwise provided, hold office for a period of three years.

(2) If a member, other than an *ex-officio* member—

(*a*) dies, or

(*b*) is absent from the meetings of the Board for more than six consecutive months, or

(*c*) leaves the Presidency of Bombay with the intention of being absent therefrom for more than six consecutive months, or

(*d*) desires to be discharged, or

(*e*) refuses to act or becomes incapable of acting,

a new member may be elected or nominated, as the case may be, in the same manner as was the member in whose place he is to be elected or nominated and he shall hold office for so long only as such member would have held it if the vacancy had not occurred.

Power of board to lend, exchange, sell or destroy articles in collections.

[1][**3B.** Subject to the provisions of any rules made by the Government in this behalf the Board may, from time to time—

(*a*) deliver by way of loan to any person the whole or any portion of, or any article contained in, any collection vested in them under this Act;

[1] Sections 3A, 3B and 3C were inserted by s. 3 of the Prince of Wales Museum (Amendment) Act, 1922 (Bom. Act 12 of 1922), *infra*.

(*b*) exchange or sell articles contained in any such collection and take or purchase, in the place of such articles, such articles as may in their opinion be worthy of preservation in the Museum ;

(*c*) present articles contained in any such collection to other Museums in India or elsewhere ; and

(*d*) remove and destroy any article contained in any such collection :

Provided that nothing herein contained shall authorise the Trustees to lend, exchange, sell, present, remove or destroy any article when such lending, exchange, sale, presentation, removal or destruction, as the case may be, is precluded by the terms on which the Trustees may have received any such article.]

[1][**3C.** Notwithstanding anything hereinbefore contained, the Board may, if they think fit, assume the custody and administration of collections which are not the property of the Board for the purposes of their trust under this Act and keep and preserve such collections either in the Museum or elsewhere.] **Power of Board to keep collections not belonging to them.**

4. All officers and servants employed by the Board shall be deemed to be public servants within the meaning of the [2]Indian Penal Code : **Officers and servants to be public servants.**

XLV of 1860.

Provided that this section shall not apply to persons in the service of any contractor employed by the Board.

5. (*1*) The [3][Government] may make rules[4] to carry out the purposes of this Act. **Rules.**

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide—

(*a*) for the manner in which meetings of the Board shall be convened, the quorum necessary for the transaction of business, and the procedure at such meetings;

(*b*) for the appointment of committees of the Board, and the powers of expenditure and control which may be delegated to such committees;

(*c*) for the erection of the Museum on the land specified in the schedule to this Act and for the maintenance and management of the said land and Museum, the care and custody of the objects deposited in the Museum, and the conditions under which the public shall have access to the land or Museum ;

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[1] *See* Footnote 1 on preceding page.

[2] General Acts, Vol. I.

[3] This word was substituted for the words "Governor of Bombay in Council" by s. 4 of the Prince of Wales Museum (Amendment) Act, 1922 (Bom. Act 12 of 1922), *infra*.

[4] For rules *see* the Bombay Local Rules and orders.

(*d*) for the maintenance, management and disposal of any other immoveable property vested in the Board and for the investment and re-investment in public securities or otherwise and for the safe custody of the funds of the Board ;

(*e*) for the form of accounts to be kept by the Board, and for the audit and publication of such accounts ; and

(*f*) for the application to the officers and servants employed by the Board of the rules which apply to the civil servants of the Crown, or to any class of such civil servants.

Power to borrow from Government or person.

[1][**6.** The Board may from time to time borrow or reborrow and take up at interest from the Government or with the previous sanction of the Government from any person any sum necessary for the purpose of defraying any costs, charges or expenses incurred or to be incurred by them to carry out the purposes of this Act, or for the purpose of repaying either in whole or part any sums hereafter borrowed or owing by the Board :

Provided that no loan exceeding in amount twenty-five lakhs of Rupees shall be raised by the Board unless the terms, including the date of flotation of such loan, have been approved by the Government of India.]

Mortgage of immoveable property, or evenues.

[1][**7.** (*1*) The Board may borrow or reborrow any such sum as aforesaid from any person on the security of any immoveable property vesting in them other than the property mentioned in the proviso to section 3 or of their revenues or of both of these securities.

(2) For the purpose of securing the repayment of any sum so borrowed with interest thereon they may mortgage to the person by or on behalf of whom such sum is advanced any such immoveable property or revenues of both of these securities.]

Provisions as to sinking funds.

[1][**8.** (*1*) In respect of every loan raised by the Board for a term exceeding one year, the Board shall either pay off the money borrowed by equal yearly or half-yearly instalments of principal or of principal and interest, or they shall in every year set apart as a sinking fund and accumulate in the way of compound interest by investing the same in the purchase of public securities or in such other securities as the Government may approve in this behalf such sum or sums as will, with accumulations in the way of compound interest, be sufficient after payment of all expenses to pay off the moneys so borrowed [2][within such period not exceeding sixty years from the date of the raising of the loan as the Government may in each case direct.]

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[1]Sections 6 to 17 were added by s. 3 of the Prince of Wales Museum (Amendment) Act, 1921 (Bom. Act 6 of 1921), *infra*.

[2]These words were substituted for the words "within the period sanctioned" by s. 5 of the Prince of Wales Museum (Amendment) Act, 1922 (Bom. Act 12 of 1922), *infra*.

(*2*) The Board may at any time apply the whole or any part of a sinking fund set apart under this section in or towards the discharge of the moneys for the repayment of which the fund has been established : Provided that they pay into the fund each time that interest would have been received by the Board in respect of the sinking fund or the part of the sinking fund so applied, and accumulate, until the whole of the moneys borrowed are discharged, a sum equivalent to the interest which would have been so received.]

Annual examination of sinking fund.

[1][**9.** The sinking fund established for the liquidation of any loan shall be subject to annual examination by the Accountant General, Bombay, who shall ascertain whether the cash and the value of the securities at the credit of the fund are actually equal to the amount which would have been accumulated, had investments been regularly made, and had the rate of interest as originally estimated been obtained thereon. The Board shall pay forthwith into the sinking fund any amount which the Accountant General may certify to be deficient, unless the Government specially sanction a gradual re-adjustment.]

Issue of debentures.

[1][**10.** (*1*) In respect of any sinking fund which by this Act the Board are directed or empowered to invest in public securities or in such other securities as the Government may approve in this behalf, it shall be lawful for the Board to reserve and set apart for the purposes of any such investment any debentures to be issued on account of any loan for which the sanction of the Government shall have been duly obtained, provided that the intention so to reserve and set apart such debentures shall have been notified as a condition of the issue of the loan.

(*2*) The issue of any such debentures direct to and in the name of "the Trustees of the Prince of Wales Museum of Western India" shall not operate to extinguish or cancel such debentures, but every debenture so issued shall be valid in all respects as if issued to, and in the name of, any other person.

(*3*) The purchase by, or the transfer, assignment or endorsement to, the Board of any debenture issued by the Board shall not operate to extinguish or cancel any such debenture, but the same shall be valid and negotiable in the same manner and to the same extent as if held by, or transferred, assigned or endorsed to, any other person.]

Form of debentures.

[1][**11.** (*1*) When money is raised by the Board on debentures the debentures shall be in such form as the Board, with the previous sanction of the Government, shall from time to time determine.

(*2*) The holder of any debenture in any form duly authorised under this section may obtain in exchange therefor, upon such terms as the Board shall from time to time determine, a debenture in any other form authorised by the Board.

[1] *See* footnote 1 on page 6, *supra*.

(*3*) Every debenture issued by the Board shall be transferable by endorsement.

(*4*) The right to payment of the moneys secured by any such debentures and to sue in respect thereof shall vest in the respective holders thereof for the time being without any preference by reason of some of such debentures being prior in date to others.]

Prohibition of endorsements on allonges.

[1][**12** Notwithstanding anything contained in section 15 of the[2] Negotiable Instruments Act, 1881, the holder of any debenture issued under the provisions of this Act and transferable by endorsement shall not be said to endorse the debenture, or be called the endorser thereof, if when he signs the same for the purpose of negotiation he subscribes his signature for that purpose elsewhere than on the back of the debenture itself.] XXVI of 1881.

Issue of stock certificates.

[1][**13**. (*1*) The Board may at their discretion at the time of issue or at any time during the currency of any debentures issued under the provisions of this Act, upon the application of the subscriber for, or holder of, any such debentures, issue to him, in lieu of the debentures deliverable to or held by him, a certificate in the nature of a stock certificate in respect of each loan to which such debentures relate, which shall be in such form as the Board, with the previous consent of the Government, shall from time to time determine.

(*2*) The Board shall upon the application of the holder of a stock certificate convert the same into debentures of the loan to which it relates.]

Payment to survivors of joint payees.

[1][**14**. (*1*) Notwithstanding anything contained in section 45 of the[3] Indian Contract Act, 1872, when money in respect of any debenture or stock certificate issued under the provisions of this Act is payable to two or more persons jointly and either or any of them dies, the money shall be payable to the survivor or survivors of those persons. IX of 1872.

(*2*) Nothing herein contained shall affect any claim which the representative of the deceased person may have against the survivor or survivors in respect of the money payable jointly to him or them and the deceased.]

Power of one or more joint holders to grant receipt.

[1][**15**. Notwithstanding anything contained in section 45 of the[3] Indian Contract, Act, 1872, where two or more persons are joint holders of any debenture or stock certificate issued under the provisions of this Act, any one of those persons may give an effectual receipt for any interest or dividend payable in respect of such debenture or stock certificate, unless notice to the contrary has been given to the Board by any other of those persons.] IX of 1872.

Notice of trust not receivable.

[1][**16**. No notice of any trust in respect of any debenture, or stock certificate issued by the Board shall be receivable by the Board.]

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[1] *See* footnote 1 on page 6, *supra*.

[2] General Acts, Volume III.

[3] General Acts, Volume II.

[1][**17.** (*1*) The Board may from time to time make rules prescribing :— Board empowered to make rules.

(*a*) the amounts for which debentures and stock certificates may be issued ;

(*b*) the mode in which payment of interest in respect of all debentures and stock certificates issued under the provisions of this Act is to be made, recorded and acknowledged ;

(*c*) the circumstances in which such debentures and stock certificates must be renewed before further payment of interest thereon can be claimed ;

(*d*) the fees to be levied in respect of the issue of renewed debentures and stock certificates ;

(*e*) the form of transfer to be used, the formalities to be observed and the fees to be levied on a transfer of stock ;

(*f*) the form in which debentures and stock certificates delivered for renewal are to be receipted ;

(*g*) the proof to be produced by persons applying for duplicate debentures and stock certificates ;

(*h*) the circumstances and manner in which duplicate debentures and stock certificates may be issued in case of debentures and stock certificates alleged to have been wholly or partly lost or destroyed and the period after which interest may be paid or a duplicate be issued in case of such debentures and stock certificates and the fees to be levied in respect of the issue of duplicate debentures and stock certificates ;

(*i*) the nature and amount of indemnity to be given by a person applying for the payment of interest on debentures alleged to have been wholly or partly lost or destroyed, or the issue of duplicate debentures ;

(*j*) generally the measures to be adopted for carrying out the purposes of this Act.

(*2*) (*a*) No rule, or alteration or revocation of a rule, shall have effect until the same shall have been approved by the Government, and such approval shall have been published in the Bombay Government Gazette ; and no rule, or alteration or revocation of a rule, shall be approved by the Government until the same shall have been published for three weeks successively in the said Gazette.

(*b*) It shall be lawful for the Government at any time by notification in the said Gazette to cancel any rule published under the provisions of this section.]

[1] *See* footnote 1 on page 6, *supra*.

SCHEDULE.[1]

The semi-circular plot of land opposite the Sailors' Home and Elphinstone College, bounded on the north by Rampart Row, measuring 31,957 square yards or thereabouts and bearing Survey No. 8433 of the City of Bombay.

BOMBAY ACT No. 1 OF 1910.[2]

[THE BOMBAY REPEALING AND AMENDING ACT, 1910.]

[*23rd February, 1910.*]

An Act to amend certain enactments and to repeal certain other enactments.

WHEREAS it is expedient to amend the enactments specified in the first schedule and to repeal the enactments specified in the second schedule to this Act; and whereas the previous sanction of the Governor General required by section 5 of the [3]Indian Councils Act, 1892, has been obtained for the passing of this Act, so far as regards the amendment of the [4]Dekkhan Agriculturists' Relief Act, 1879, and of the [4]Panch Mahals Laws Act, 1885, in the manner mentioned in the first schedule and the repeal of the [4]Bombay Civil Courts Act, 1869, to the extent mentioned in the second schedule; It is hereby enacted as follows :— XVII of 1879. VII of 1885. XIV of 1869.

Short title.

1. This Act may be called the Bombay Repealing and Amending Act, 1910.

Amendment of certain enactments.

2. The enactments specified in the first schedule are hereby amended in the manner mentioned in the fifth column thereof.

Repeal of certain enactments.

3. The enactments specified in the second schedule are hereby repealed to the extent mentioned in the fifth column thereof.

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[1] This Schedule has been amended by s. 2 of the Prince of Wales Museum (Amending) Act, 1913 (Bom. Act 7 of 1913), *infra*.

[2] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1909, Part VII, page 12; for Report of Select Committee, *see ibid*, 1909, Part VII, page 95; and for Proceedings in Council, *see ibid*, 1909, Part VII, pages 38 and 169.

[3] *See* now section 80-A of the Government of India Act.

[4] Vol. I of this Code.